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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/024,374	12/21/2001	Takaya Ibe	107156-00090	1227

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EXAMINER

JASMIN, LYNDIA C

ART UNIT PAPER NUMBER

3627

DATE MAILED: 03/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/024,374

Applicant(s)

IBE, TAKAYA

Examiner

Lynda Jasmin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 7-11 and 15-18 are rejected under 35 U.S.C. 102(e) as being anticipated by Atkinson (2001/0054180).

Atkinson discloses a mail-order business system comprising: a terminal device (via output devices 14-148 and 150-158) for receiving and displaying a homepage information and a management information of goods/service (such as film clips, songs or advertising) sold by a mail-order firm (via a commerce center) through any one of a television broadcast and a communication network (via local media manager); and a mobile communication apparatus (162, 164) for receiving the management information displayed on the terminal device and transmitting an offer data of purchase of the goods/service to the mail-order firm (see ¶s 0012, 0030, 0052), wherein the mobile communication apparatus comprises: optical signal receiving means for optically reading the management information, which is formed by optical signals, displayed on the terminal device (broadcasting via IR to a user's Palm Pilot); designating means for designating a purchaser's desired goods/service (via an order form); offer data

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generating means for generating the offer data of the designated goods/service based on the management information optically read out by said optical signal receiving means (§ 0095); and transmitting/receiving means for transmitting said offer data to the mail-order firm and receiving a confirmation data from the mail-order firm (§ 0080).

Atkinson further discloses an instruction means for instructing a distributor and a service provider to supply the designated goods/service to the purchaser when the offer data is transmitted to the mail-order firm (§ 0030); and settlement means for settling an account of the goods/service (via credit card number). The management information includes an identification code data of the mail-order firm containing a telephone number thereof (§ 0052), an identification code data for identifying the goods/service, and a time data for showing day and time of the broadcast (§ 0103). The terminal device is a television set (§ 0111). The mobile communication apparatus is a cellular phone (§ 0113).

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

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under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 4-6, 12-14, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Atkinson.

Although Atkinson does not explicitly disclose a central processing unit for integrating each means, however Atkinson discloses user-controlled devices in bi-directional communication with local area broadcast and moreover with a commerce center. Atkinson further that the consumer device could download music and related authorization information (media) in a public space via local RF or wired connection (plug-in to network), then leave the public space. Later they can complete the authorization form, transmit it over the Internet, and receive the authorization that enables them to `unlock` or otherwise access the music. Of course the same transaction could take place within the public space. Thus it would obvious to one of ordinary skill in the art at the time the invention was made to have provided the PDA or Palm Pilot or Cellular telephone of Atkinson with the storage means for analyzing data and hysteresis data since such could be performed equally well using the mobile devices taught Atkinson.

### ***Conclusion***

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Ogasawara, Hunter et al., Redford et al. Pieterse et al.,


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Mankovitz, and Sugawara (Abstract) are cites for disclosing electronic orders using mobile devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda Jasmin whose telephone number is (703) 305-0465 (after April 13<sup>th</sup> the new number (571) 272-6782). The examiner can normally be reached on Monday- Friday (8:00-5:30) alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P Olszewski can be reached on (703) 308-5183. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Lynda Jasmin  
Primary Examiner  
Art Unit 3627  
3/21/05

lj